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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bill was introduced in Lok Sabha on the 27th February, 1984:—

BILL No. 7 OF 1984

A Bill further to amend the Industries (Development and Regulation) Act, 1951.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Industries (Development and Regulation) Amendment Act, 1984.

Short
title
and
commen-
cement

(2) It shall be deemed to have come into force on the 12th day of January, 1984.

2. In section 3 of the Industries (Development and Regulation) Act, 1951 (hereinafter referred to as the principal Act),—

Amend-
ment of
section
3 of Act
65 of 1951.

(i) clauses (aa) and (ab) shall be re-lettered as clauses (ab) and (ac) respectively, and before clause (ab) as so re-lettered, the following clause shall be inserted, namely:—

“(aa) “ancillary industrial undertaking” means an industrial undertaking which, in accordance with the proviso to sub-section (1) of section 11B and the requirements specified under that sub-section, is entitled to be regarded as an ancillary industrial undertaking for the purposes of this Act;”

(ii) clause (j) shall be re-lettered as clause (k), and before clause (k) as so re-lettered, the following clause shall be inserted, namely:—

(j) "small scale industrial undertaking" means an industrial undertaking which, in accordance with the requirements specified under sub-section (1) of section 11B, is entitled to be regarded as a small scale industrial undertaking for the purposes of this Act;.

3. After section 11A of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 11B.

Power of Central Government to specify the requirements which shall be complied with by small scale industrial undertakings.

"11B. (1) The Central Government may, with a view to ascertaining which ancillary and small scale industrial undertakings need supportive measures, exemptions or other favourable treatment under this Act to enable them to maintain their viability and strength so as to be effective in—

(a) promoting in a harmonious manner the industrial economy of the country and easing the problem of unemployment, and

(b) securing that the ownership and control of the material resources of the community are so distributed as best to subserve the common good,

specify, having regard to the factors mentioned in sub-section (2), by notified order, the requirements which shall be complied with by an industrial undertaking to enable it to be regarded, for the purposes of this Act, as an ancillary, or a small scale, industrial undertaking and different requirements may be so specified for different purposes or with respect to industrial undertakings engaged in the manufacture or production of different articles:

Provided that no industrial undertaking shall be regarded as an ancillary industrial undertaking unless it is, or is proposed to be, engaged in—

(i) the manufacture of parts, components, sub-assemblies, toolings or intermediates; or

(ii) rendering of services, or supplying or rendering, not more than fifty per cent of its production or its total services, as the case may be to other units for production of other articles.

(2) The factors referred to in sub-section (1) are the following namely:—

(a) the investment by the industrial undertaking in—

(i) plan and machinery, or

(ii) land, buildings, plant and machinery;

(b) the nature of ownership of the industrial undertaking;

(c) the smallness of the number of workers employed in the industrial undertaking;

(d) the nature, cost and quality of the product of the industrial undertaking;

(e) foreign exchange, if any, required for the import of any plant or machinery by the industrial undertaking; and

(f) such other relevant factors as may be prescribed.

(3) A copy of every notified order proposed to be made under sub-section (1) shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the proposed notified order, or both Houses agree in making any modification in the proposed notified order, the notified order shall not be made, or, as the case may be, shall be made only in such modified form as may be agreed upon by both the Houses.

(4) Notwithstanding anything contained in sub-section (1), an industrial undertaking which, according to the law for the time being in force, fell, immediately before the commencement of the Industries (Development and Regulation) Amendment Act, 1984, under the definition of an ancillary, or small scale, industrial undertaking, shall, after such commencement, continue to be regarded as an ancillary or small scale, industrial undertaking for the purposes of this Act until the definition aforesaid is altered or superseded by any notified order made under sub-section (1)."

4. In section 24 of the principal Act in sub-section (1), in clause (i), for the words, brackets, figures and letter "sub-section (2) of section 29B", the words, brackets, figures and letters "sub-sections (2), (2A), (2D), (2F) and (2G) of section 29B" shall be substituted. Amendment of section 24.

5. In section 29B of the principal Act, after sub-section (2), the following sub-sections shall be inserted, namely:— Amendment of section 29B.

(2A) In particular, and without prejudice to the generality of the provisions of sub-section (1), the Central Government may, if it is satisfied after considering the recommendations made to it by the Advisory Committee constituted under sub-section (2B), that it is necessary so to do for the development and expansion of ancillary, or small scale, industrial undertakings, by notified order, direct that any article or class of articles specified in the First Schedule shall, on and from such date as may be specified in the notified order (hereafter in this section referred to as the "date of reservation"), be reserved for exclusive production by the ancillary, or small scale, industrial undertakings (hereafter in this section referred to as "reserved article").

(2B) The Central Government shall, with a view to determining the nature of any article or class of articles that may be reserved for production by the ancillary, or small scale, industrial undertakings constitute an Advisory Committee consisting of such persons as have, in the opinion of that Government, the necessary expertise to give advice on the matter.

(2C) The Advisory Committee shall, after considering the following matters, communicate its recommendations to the Central Government, namely:—

(a) the nature of any article or class of articles which may be produced economically by the ancillary, or small scale, industrial undertakings;

(b) the level of employment likely to be generated by the production of such article or class of articles by the ancillary, or small scale, industrial undertakings;

(c) the possibility of encouraging and diffusing entrepreneurship in industry;

(d) the prevention of concentration of economic power to the common detriment; and

(e) such other matters as the Advisory Committee may think fit.

(2D) The production of any reserved article or class of reserved articles by any industrial undertaking (not being an ancillary, or small scale, industrial undertaking) which, on the date of reservation, is engaged in, or has taken effective steps for, the production of any reserved article or class of reserved articles, shall, after the commencement of the Industries (Development and Regulation) Amendment Act, 1984, or, as the case may be, the date of reservation, whichever is later, be subject to such conditions as the Central Government may, by notified order, specify.

(2E) While specifying any condition under sub-section (2D), the Central Government may take into consideration the level of production of any reserved article or class of reserved articles achieved, immediately before the date of reservation, by the industrial undertaking referred to in sub-section (2D), and such other factors as may be relevant.

(2F) Every person or authority, not being the Central Government, who, or which, is registered under section 10 or to whom, or to which, a licence has been issued or permission has been granted under section 11 for the production of any article or class of articles which has, or have been subsequently reserved for the ancillary, or small scale, industrial undertakings, shall produce, such registration certificate, licence or permission, as the case may be, within such period as the Central Government may, by notified order, specify in this behalf, and the Central Government may enter therein all or any of the conditions specified by it under sub-section (2D), including the productive capacity of the industrial undertakings and other prescribed particulars.

(2G) The owner of every industrial undertaking (not being an ancillary, or small scale, industrial undertaking) which, immediately before the commencement of the Industries (Development and Regulation) Amendment Act, 1984, or the date of reservation, whichever is later,—

(a) was engaged in the production of any article or class of articles, which has, or have, been reserved for the ancillary, or small scale, industrial undertakings, or

(b) had before such commencement or before the date of such reservation, as the case may be, taken effective steps for commencing the production of such reserved article or class of reserved articles,

without being registered under section 10 or in respect of which a licence or permission has not been issued under section 11, shall refrain from the production of such reserved article or class of reserved articles, on and from the date of expiry of three months from such commencement or from the date of such reservation, whichever is later.

(2H) Every notified order made under sub-section (2A) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notified order or both Houses agree that the notified order should not be made, the notified order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notified order.

6. Notwithstanding anything contained in any judgment, degree or order of any court, tribunal or other authority and notwithstanding anything contained in any other law, agreement or other instrument for the time being in force, every notification made or purporting to have been made by the Central Government under the principal Act, on or after the 19th day of February, 1970, reserving any article or class of articles for production by any ancillary, or small scale, industrial undertaking or any class of ancillary, or small scale, industrial undertakings shall, for all purposes, be, and shall be deemed always to have been, as valid and effective as if the amendments made to the principal Act by this Act had been in force at all material times and such notification had been made in full compliance with the provisions made by such amendments and accordingly any reservation made or purporting to have been made by such notification shall, in accordance with the tenor thereof, have, and be deemed always to have had, effect on and from the date of such reservation and shall, until it is altered or superseded by any fresh notification under the principal Act as amended by this Act, continue to have effect.

Vali-
dation

Explanation.—For the removal of doubts it is hereby provided that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable if this section had not come into force.

7 (1) The Industries (Development and Regulation) Amendment Ordinance, 1984, is hereby repealed.

Repeal
and
saving.

(2) Notwithstanding such repeal, anything done or any action taken under, the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

One of the important policy measures adopted by the Government to improve the competitive strength of industrial undertakings in the small scale sector, is to reserve selected items for exclusive production by such undertakings. Under this policy, 872 items are presently so reserved. The Government has been making such reservations since 19th February, 1970 through the exercise of powers under section 29B of the Industries (Development and Regulation) Act, 1951 which provides that the Central Government, having regard to the smallness of the number of workers employed or the amount invested in the industrial undertaking or to the desirability of encouraging small undertakings generally or to the stage of development of any scheduled industry, may exempt any undertaking from the operation of all or any of the provisions of the Act.

As there is no specific mention in section 29B of the Act about reservation of items for exclusive production by small scale undertakings, doubts have been raised about the competence of the Government to take such action. With a view to placing the matter beyond doubt, the President has promulgated the Industries (Development and Regulation) Amendment Ordinance, 1984 (No. 1 of 1984) making specific provision in the Industries (Development and Regulation) Act, 1951, empowering the Government to:

- (a) specify the requirements to be complied with by an industrial undertaking to enable it to be regarded as an ancillary or a small scale industrial undertaking;
- (b) make reservation of any article or class of articles for exclusive production by an ancillary or small scale industrial undertaking;
- (c) fix the productive capacity of large and medium scale units, already producing such reserved items on the date of reservation; and
- (d) provide for all other matters incidental thereto.

The Bill seeks to replace the said Ordinance.

No financial commitment or expenditure from the Consolidated Fund of India is likely to be involved if the proposed Bill is enacted.

The notifications whereby small scale or ancillary industrial undertakings were defined and the notifications whereby articles were reserved for production by small scale or ancillary industrial undertakings, which are proposed to be validated by the Bill, are being laid on the Table of each House of Parliament

New Delhi;

NARAYAN DATT TIWARI.

The 5th February, 1984.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill seeks to insert new section 11B in the Industries (Development and Regulation) Act, 1951. Sub-section (1) of that section empowers the Central Government to specify, by notified order, the requirements which shall be complied with by an industrial undertaking in order to be regarded as an ancillary, or small scale, industrial undertaking, and sub-section (2) thereof empowers the Central Government to prescribe by rules such other relevant factors which have to be taken into consideration in specifying the requirements aforesaid.

Sub-section (3) of the said section 11B provides that the draft of the notified order proposed to be made under sub-section (1) shall be laid before each House of Parliament for thirty days and such notified order shall not be made if it is disapproved by both Houses of Parliament or if it is modified by both Houses of Parliament, it shall be made only in such modified form.

Clause 5 of the Bill seeks to insert new sub-sections (2A) to (2H) in section 29B, of which—

(i) sub-section (2A) empowers the Central Government to direct, by notified order, that any article or class of articles specified in the First Schedule may be reserved for exclusive production by the ancillary, or small scale, industrial undertakings,

(ii) sub-section (2D) empowers the Central Government to specify, by notified order, the conditions subject to which the reserved articles shall be produced by large scale industrial undertakings which are already producing such reserved articles or have taken effective steps for the production of such reserved articles,

(iii) sub-section (2F) empowers the Central Government to specify, by notified order, the period within which every industrial undertaking which is registered under section 10, or to which a licence or permission has been granted under section 11 for the production of any articles which has subsequently been reserved for production by ancillary or small scale industrial undertakings, to produce such registration certificate, licence or permission to enable the Central Government to enter therein all or any of the conditions, specified by it under sub-section (2D), and the productive capacity or other prescribed particulars.

The matters in relation to which the legislative power has been so delegated, are matters of detail. The delegation of legislative power is, therefore, of a normal character.

SUBHASH C. KASHYAP,
Secretary-General.

